

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION**

APPALACHIAN POWER COMPANY.,

*Plaintiff,*

v.

WILLIAM W. NISSEN II,  
and  
LORA J. NISSEN,

*Defendants.*

CIVIL NO. 7:14-cv-000535

**ORDER**

JUDGE NORMAN K. MOON

For the reasons stated in the accompanying memorandum opinion, Plaintiff's Motion for Summary Judgment (docket no. 65) is **GRANTED**. Specifically, Plaintiff's Motion is **GRANTED** with respect to finding that the Defendants have violated the Flowage Easement. However, the Court declines to require the Defendants to affirmatively remedy their obligations by, for example, removing the dock. Instead, the Court will give the Defendants two options: (1) develop a plan to remedy the violations that the Plaintiff can agree to or (2) allow the Plaintiff to enter the property to remedy the violations and be subject to the payment of damages. Therefore, the Defendants are **DIRECTED** to submit the following updates to the Court detailing:

1. Whether the Defendants plan to affirmatively remedy the violations of the Flowage Easement, e.g., whether they intend to remove the dock themselves;
2. If so, the steps taken to contact the Plaintiff to develop a proper plan for such remedial action;
3. Steps the Defendants have taken to gain compliance with the dock.

Defendants are to file these updates with the Court no later than the close of business thirty (30) days after entry of this order.

It is so **ORDERED**.

The Clerk of the Court is hereby directed to send a certified copy of this Order and the accompanying Memorandum Opinion to all counsel of record.

ENTERED: This 18<sup>TH</sup> day of December, 2015

  
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NORMAN K. MOON  
UNITED STATES DISTRICT JUDGE